

Employment and Staffing

Expert and Consultant Appointments

Summary of Changes. This regulation provides guidance regarding the employment of “experts” or “consultants” within the California National Guard technician program.

Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and California Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

Content (listed by paragraph number)

	Paragraph
Purpose	1
References	2
Definitions	3
General Policy	4
Request for Expert or Consultant Appointment	5
Appointment and Pay Procedures	6
Leave	7
Reports	8

- 1. Purpose.**
This technician personnel regulation provides guidance regarding the employment of “experts” or “consultants” within the California National Guard. This regulation does not discuss the use of private sector temporaries or contracting services (see CNGTPR 316).
- 2. References.**
Section 3109 of Title 5 United States Code, and Part 304 of Title 5, Code of Federal Regulations (CFR), establish the statutory and regulatory authority for the employment of “experts” or “consultants.”
- 3. Definitions.**
a. As defined by 5 CFR 304.102, a consultant is an individual who can provide valuable and pertinent advice, generally drawn from a high degree of administrative, professional, or technical knowledge or experience.

A consultant gives viewpoints or professional opinions on problems or questions, but does not perform nor supervise performance of operating functions.

b. An expert is an individual who is specifically qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement of competent persons in that field. An expert is regarded by others as an authority or a practitioner of unusual competence and skill in a profession, occupation, or activity.

4. General Policy.

a. National Guard Bureau approval is required for requests for appointment of experts and consultants. Use of experts and consultants is appropriate when the following circumstances exist:

(1) The necessary specialized opinion or knowledge is unavailable in the California National Guard or from other activities.

(2) Advice is needed regarding developments in industry, university and foundation research. For especially important projects, the opinions of noted experts, whose national or international prestige contributes to the undertaking's success is required.

(3) The specialized skills of noted experts are not needed continuously or on a regular or full-time basis.

b. Under **NO** circumstances should expert or consultant appointments be made to perform a job of a full-time, continuous nature; to perform a job regular technicians could do; to fill in during staff shortages; to avoid competitive employment procedures or General Schedule pay limits; or to do supervisory or managerial work.

5. Request for Expert or Consultant Appointment.

a. Commanders/Directors requesting an expert or consultant appointment must forward a memorandum to the Directorate for Human Resources addressing the following information as a minimum:

(1) Why a consultant or expert is needed.

(2) Why short-term services are needed instead of a continuing, full-time, regular employee.

(3) Qualifications of the proposed consultant or expert.

(4) Appropriateness of the intended level of pay in relation to the work performed and comparable salaries in the private sector.

b. The HRO will review the request for appropriateness in accordance with the general policy and forward supportable requests to NGB-J1-HRS.

6. Appointment and Pay Procedures.

a. When authorized, a consultant or expert may be selected for a temporary or intermittent appointment. These appointments are exempt from competitive examination, position classification, and General Schedule pay rates.

b. Basic pay for experts and consultants is set by the Directorate of Human Resources. The Director of Human Resources considers the following in setting the initial rate of basic pay for an expert or consultant:

(1) The level and difficulty of the work to be performed.

(2) The qualifications of the expert or consultant.

(3) The pay rates for comparable individuals performing similar work (in Federal or non-Federal sectors.)

(4) The availability of qualified candidates.

c. The California National Guard may not (for any one day), pay an aggregate amount (including basic pay, locality pay and premium pay) that exceeds the daily equivalent of the highest rate payable under 5 USC 5332 – the daily rate for GS-15, step 10 under the General Schedule.

d. The Director of Human Resources has the authority to adjust the pay of experts and consultants after initial appointment and to establish appropriate policies governing the amount and timing of any such adjustments. Factors such as job performance, contributions to the mission and general pay increases granted to other Federal employees may be considered.

e. Experts and consultants are not entitled to receive automatic adjustments in their rates of basic pay at the time of general increases unless specifically provided for in the official appointing document.

7. Leave.

Experts and consultants with a regularly schedule tour of duty (i.e., not intermittent) are entitled to sick and annual leave and to pay for any holiday taking place on a workday (on which they performed no work), provided that workday is part of the basic workweek. Those employed on an intermittent schedule do not earn leave and are not entitled to paid holidays.

8. Reports.

At the end of fiscal year, the California National Guard must report to NGB-J1-HRS the number of days each expert/consultant worked and the total amount paid.

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